

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-16502
Non-Argument Calendar

<p>FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT July 10, 2007 THOMAS K. KAHN CLERK</p>
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BIA No. A41-075-231

CESAR ISIDRO PALOMINO-ABAD,

Petitioner,

versus

U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of a Decision of the
Board of Immigration Appeals

(July 10, 2007)

Before WILSON, PRYOR and FAY, Circuit Judges.

PER CURIAM:

Cesar Isidro Palomino-Abad (“Palomino”) petitions for review of the denial of his motion to reconsider by the Board of Immigration Appeals (“BIA”).

Palomino challenges the BIA’s decision not to reconsider its prior dismissal of his appeal from the Immigration Judge’s (“IJ”) order of removal. The IJ relied upon In re Blake, 23 I. & N. Dec. 722 (BIA 2005), petition for review granted sub nom. Blake v. Carbone, ___ F.3d ___ (2d Cir. June 1, 2007), to conclude that Palomino was not eligible for relief under former § 212(c) of the Immigration and Nationality Act.

In In re Blake, the BIA determined that there was no comparable ground for exclusion for the “sexual abuse of a minor” category of aggravated felony offenses. Blake, 23 I. & N. Dec. at 729. While this petition for review was pending before us, the Second Circuit granted the petition for review of Blake. The Court then rejected the BIA’s reasoning, instead holding that “petitioners’ eligibility for a § 212(c) waiver must turn on their particular criminal offenses. If the offense that renders a lawful permanent resident deportable would render a similarly situated lawful permanent resident excludable, the deportable lawful permanent resident is eligible for a waiver of deportation” Blake, manuscript op. at 25-26.

Without expressing any opinion about the issues raised in Palomino’s petition for review or Palomino’s eligibility for § 212(c) relief, we **GRANT** the petition, **VACATE** the order denying reconsideration, and **REMAND** this case to

the BIA for the purpose of allowing the BIA to consider Palomino's motion to reconsider in light of Blake v. Carbone.